

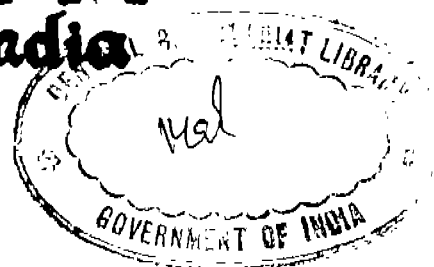


भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY



सं. 48] नई दिल्ली, बुधवार, दिसम्बर 6, 1995/अग्रहायण 15, 1917
No. 48] NEW DELHI, WEDNESDAY, DECEMBER 6, 1995/AGRAHAYANA 15, 1917

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on 6th December, 1995:—

BILL No. 82 OF 1995

A Bill to provide for the Constitution of a Trust for the welfare of persons with mental retardation and cerebral palsy and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the National Trust for Welfare of Persons with Mental Retardation and Cerebral Palsy Act, 1995.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

Short title,
extent and
com-
mencement.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “cerebral palsy” means a group of non-progressive conditions of a person characterised by abnormal motor control posture resulting from brain insult or injuries occurring in the pre-natal, perinatal or infant period of development;

(b) “Chairperson” means the Chairperson of the Trust appointed under clause (a) of sub-section (4) of section 3;

(c) “Chief Executive Officer” means the Chief Executive Officer appointed under sub-section (1) of section 7;

(d) “Member” means a Member of the Trust appointed under sub-section (4) of section 3 and includes the Chairperson;

(e) “mental retardation” means a condition arrested or incomplete development of mind of a person which is specially characterised by sub-normality of intelligence;

(f) “prescribed” means prescribed by rules made under this Act;

(g) “Trust” means the National Trust for Welfare of Persons with Mental Retardation and Cerebral Palsy constituted under sub-section (1) of section 3.

CHAPTER II

THE NATIONAL TRUST FOR WELFARE OF PERSONS WITH MENTAL RETARDATION AND CEREBRAL PALSY

Constitution
and incorpora-
tion of the
National Trust
for Welfare of
Persons with
Mental
Retardation
and Cerebral
Palsy.

3. (1) With effect from such date as the Central Government may, by notification, appoint in this behalf, there shall be constituted for the purposes of this Act, a Trust to be called the National Trust for Welfare of Persons with Mental Retardation and Cerebral Palsy.

(2) The Trust shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The head office of the Trust shall be at Delhi and the Trust may, with the previous approval of the Central Government, establish offices at other places in India.

(4) The Trust shall consist of the following Members, namely:—

(a) a Chairperson to be appointed by the Central Government, from amongst the persons of eminence in public life;

(b) not more than eight Members to be appointed by the Central Government to represent voluntary organisations, associations of parents and such other bodies as may be prescribed;

(c) six Members to be appointed by the Central Government to represent respectively the Ministries of the Central Government dealing with—

(i) Welfare;

- (ii) Health;
- (iii) Labour
- (iv) Finance;
- (v) Urban Affairs and Employment;
- (vi) Education;

(d) three Members of Parliament of whom two shall be elected by the House of the People and one by the Council of State, Member,

(e) the Chief Executive Officer, ex officio Member-Secretary.

4. (1) The Chairperson or a Member shall hold office for a term of three years from the date of his appointment or until his successor shall have been duly appointed, whichever is longer.

Term of office
of
Chairpersons
and Members.

(2) The office of the Member of the Trust shall not disqualify its holder for being chosen as or for being a Member of either House of Parliament.

(3) The conditions of service of the Chairperson and Members shall be such as may be prescribed.

(4) A casual vacancy in the Trust shall be filled in accordance with the provisions of section 3 and the persons so appointed shall hold office only for the remainder of the term for which the Member, in whose place he was appointed, would have held that office.

(5) The Trust shall meet at least once in six months, at such time and place as may be appointed by the Trust and shall observe such rules of procedure in the transaction of business at a meeting as may be prescribed.

(6) The Chairperson, if for any reason, is unable to attend the meeting of the Trust, any Member elected by the Members present from amongst themselves at the meeting, shall preside at the meeting.

(7) All questions which come up before any meeting of the Trust shall be decided by a majority of votes of the Members present and voting, and in the event of an equality of votes, the Chairperson, or in his absence, the person presiding shall have a second or casting vote.

5. No persons shall be a Member if he—

Disquali-
fication.

- (a) is, or becomes, of unsound mind or is so declared by a competent court; or
- (b) is, or has been, convicted of any offence which, in the opinion of the Central Government, involves moral turpitude; or
- (c) is, or at any time has been, adjudicated as an insolvent.

6. If a Member—

- (a) becomes subject to any of the disqualifications mentioned in section 5; or

Vacation of
office by
Members.

(b) is, without obtaining leave of absence, absent from three consecutive meetings of the Trust,

his seat shall thereupon become vacant.

Chief
Executive
Officer and
staff of the
trust

7. (1) The Central Government shall appoint the Chief Executive Officer to exercise such powers and perform such duties under the direction of the Trust as may be prescribed or as may be delegated to him by the Chairperson.

(2) The Trust shall, with the previous sanction of the Central Government, employ such officers and other employees as it deems necessary to carry out the purposes of this Act.

(3) The terms and conditions of service of the Chief Executive Officer, other officers and employees of the Trust shall be such as may be provided by regulations.

Vacancy in the
Trust not to
invalidate acts,
etc.

8. No act or proceeding of the Trust shall be called in question on-the-ground merely of the existence of any vacancy in, or any defect in the constitution of, the Trust.

CHAPTER III

FUNCTIONS OF THE TRUST

Functions of
Trust.

9. The functions of the Trust shall be—

(a) to arrange and provide care and rehabilitation to the persons with mental retardation and cerebral palsy;

(b) to set up homes and service institutions for the persons with mental retardation and cerebral palsy;

(c) to provide guidelines, aid and assistance to the organisation providing care and rehabilitation services to the persons with mental retardation and cerebral palsy;

(d) to provide guardianship and foster care;

(e) to strengthen and support the welfare programmes of families, parent associations and voluntary organisations;

(f) to receive from the parents the properties bequeathed by them for the maintenance of their children with mental retardation or cerebral palsy; and

(g) to undertake such other activities for the promotion of care and rehabilitation of the persons with mental retardation and cerebral palsy.

CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT OF THE TRUST

Payment to
Trust

10. The Central Government may, after due appropriation made by Parliament by law in this behalf, pay to the Trust in each financial year such sums as may be considered necessary for the exercise of powers and efficient discharge of the functions of the Trust under this Act.

11. (1) The Trust shall maintain a Fund to which shall be credited—

Funds of
Trust.

(a) all moneys received from the Central Government;

(b) all moneys received by the Trust by way of grants, gifts, donations, benefactions, bequests or transfers; and

(c) all moneys received by the Trust in any other manner or from any other source.

(2) All moneys credited to the Fund shall be deposited in such banks or invested in such manner as the Trust may, subject to the approval of the Central Government, decide.

(3) The Fund shall be applied towards meeting the administrative and other expenses of the Trust including expenses incurred in the exercise of its powers and discharge of its functions in relation to any of the activities under section 9 or in relation to any of the activities referred to therein or for anything relatable thereto.

12. The Trust shall prepare, in such form and at such time each financial year as may be prescribed, a budget for the next financial year showing the estimated receipts and expenditure of the Trust and shall forward same to the Central Government.

Budget of
Trust.

13. (1) The Trust shall maintain proper accounts and other relevant records and prepare and annual statement of accounts including the balance-sheet in such form as the Central Government may prescribe and in accordance with such general direction as may be issued by that Government in consultation with the Comptroller and Auditor-General of India.

Accounts and
audit of Trust.

(2) The accounts of the Trust shall be audited by the Comptroller and Auditor-General of India and any expenditure incurred by him in connection with such audit shall be payable by the Trust to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any person appointed by him in connection with the audit of the accounts of the Trust shall have the same rights, privileges and authority in connection with such audit as the Comptroller and Auditor-General of India has in connection with the audit of the Government accounts and in particular, shall have the right to demand the production of books of accounts connected vouchers and other documents and papers and to inspect the office or offices of the Trust.

(4) The accounts of the Trust as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

14. The Trust shall prepare every year, in such form and within such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the Central Government and that Government shall cause the same to be laid before each House of Parliament.

Annual report
of Trust.

15. All orders and decisions of the Trust shall be authenticated by the signature of the Chairperson and all other instruments issued by the Trust shall be authenticated by the Signature of the Chief Executive Officer or any other officer authorised by him in this behalf.

Authentication
of orders and
instruments of
Trust.

Returns and
information.

16. The Trust shall furnish to the Central Government such reports, returns and other information as that Government may require from time to time.

CHAPTER V

MISCELLANEOUS

Directions by
the Central
Government.

17. (1) The Trust shall, in the discharge of its functions and duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

(2) The decision of the Central Government as to whether the question is one of policy or not shall be final.

Power to
supersede the
Trust.

18. (1) If the Central Government is of opinion that the Trust is unable to perform or has persistently made default in the performance of the duty imposed on it by or under this Act or has exceeded or abused its powers or has wilfully or without sufficient cause failed to comply with any direction issued by the Central Government under section 17, the Central Government may, by notification in the Official Gazette, supersede the Trust for such period as may be specified in the notifications:

Provided that before issuing a notification under this sub-section, the Central Government shall give a reasonable opportunity to the Trust to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Trust.

(2) Upon the publication of a notification under sub-section (1) superseding the Trust—

(a) all the Members shall, notwithstanding that their term of office had not expired, as from the date of supersession, vacate their offices as such Members;

(b) all the powers and duties which may, by or under the provisions of this Act, be exercised or performed by or on behalf of the Trust shall, during the period of supersession, be exercised and performed by such person or persons as the Central Government may direct;

(c) all property vested in the Trust shall, during the period of supersession, vest in the Central Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government may—

(a) extend the period of supersession for such further period as it may consider necessary; or

(b) reconstitute the Trust in the manner provided in section 3.

Exemption
from tax on
income.

19. Notwithstanding anything contained in the Income-tax Act, 1961 or any other enactment for the time being in force relating to tax on income, profits or gains, the Trust shall not be liable to pay income-tax or any other in respect of its income, profits or gains derived.

43 of 1961.

20. No suit prosecution or other legal proceedings shall lie against the Trust, or any Member or Chief Executive Officer or any officer or other employee of the Trust or any other person authorised by the Trust to discharge any functions under this Act, or any loss or damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

Protection of action taken in good faith.

45 of 1960.

21. The Members, Chief Executive Officer, officers and other employees of the Trust, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members and officers of the Trust to be public servants.

22. The Trust may, by general or special order in writing, delegate to the Chairperson or any other Member or to any officer of the Trust subject to such conditions and limitations, if any, as may be specified in the order, such of its powers and functions under this Act (except the powers under section 24) as it may deem necessary.

Delegation.

23. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the persons representing other bodies under clause (b) of sub-section (4) of section 3;

(b) conditions of service of the Chairperson and Members under sub-section (3) of section 4;

(c) rules of procedure in the transactions of business at meetings of the Trust under sub-section (4) of section 4;

(d) powers and duties of the Chief Executive Officer under sub-section (1) of section 7;

(e) the form in which, and the time within the budget of the Trust shall be forwarded to the Central Government under section 12;

(f) the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 13;

(g) the form in which, and the time within which, the annual report shall be prepared under section 14; and

(h) any other matter which is required to be, or may be, prescribed.

24. (1) The Trust may, with the previous approval of the Central Government, by notification in the Official Gazette, make regulations consistent with this Act and the rules generally to carry out the purposes of this Act.

Power to make regulation.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for the terms and other conditions of service of the Chief Executive Officer and other officers and employees of the Trust under sub-section (3).

Rules and regulations to be laid before Parliament.

25. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

STATEMENT OF OBJECTS AND REASONS

The welfare of the persons with mental retardation and cerebral palsy has been engaging the attention of the Government for a long time. The main problem which has to be solved while dealing with persons suffering from mental retardation and cerebral palsy is how to provide for the care of such persons after the death of their parents or guardians. Hence, it is considered necessary to have a statutory body to take care of this problem. It has, therefore been decided to constitute a National Trust to be known as the National Trust for the Welfare of Persons with Mental Retardation and Cerebral Palsy. The main task of the Trust will be to make arrangements for care and rehabilitation of such persons, to provide aid and assistance to the organisations engaged in such care and to receive and manage the properties bequeathed for the purpose.

2. The Trust will be empowered to receive grants, gifts, donations, benefactions, bequests and transfers. The Central Government, after due appropriation by Parliament, will make provisions for such sums of money as may be considered necessary to enable the Trust to discharge its responsibilities.

3. The Bill seeks to achieve the aforesaid objectives.

SITARAM KESRI.

NEW DELHI;
The 11th November, 1995.

FINANCIAL MEMORANDUM

Clause 3(1) provides for constitution of a Trust called the National Trust for Welfare of Persons with Mental Retardation and Cerebral Palsy. The financial requirement cannot be worked out at this stage because it will depend on so many factors such as number of persons with mental retardation or with cerebral palsy or with both getting admitted to the Trust, number of institutions it will establish and maintain. The Trust will accept donations, gifts, benefactions and bequests etc. Eventually the Trust is expected to become viable and meet its own expenses.

2. Clause 4(3) provides that other conditions of service of members shall be such as may be prescribed. The financial involvement could be worked out only after the conditions of service of members have been finalised and not at this stage. Clauses 7(1) and 7(3) provide for appointment of Chief Executive Officer and officers and other employees to carry out the purposes of the Act. Clause 7(3) says that terms and conditions of services of the Chief Executive Officer, other officers and employees of the Trust shall be such as may be provided by regulations. The financial involvement, therefore, could be worked out only after decision regarding number of officers and staff has been taken and their terms and conditions of services have been decided.

3. The Bill, when enacted, will not involve any other recurring or non-recurring expenditure.

Notes on Clauses

Clause 2 provides for certain definitions used in the bill.

Clause 3 provides for the constitution of the National trust for the welfare of persons with Mental Retardation and Cerebral Palsy consisting of a Chairperson, not more than eight members to represent the voluntary organisations, six members to represent the ministries of the Central Government dealing with welfare, health, labour, Finance, Urban Affairs and Employment and Education and three members of Parliament.

Clause 4 provides for the term of office of the Chairperson and the members and their other terms and condition of service which shall be prescribed by rules.

Clause 5 provides for disqualification of members in certain contingencies;

Clause 6 provides for vacation of office by members.

Clause 7 provides for the appointment terms and conditions of the Chief Executive Officer and other officers and staff the trust which shall be regulated by regulations made by the Trust.

Clause 8 provides that no act or proceeding of the Trust shall be called into question merely on the ground of any vacancy or any defect in the constitution of the Trust.

Clause 9 provides for the functions of the Trust which include inter alia arranging and providing,-

- (i) care and rehabilitation to persons with mental retardation and cerebral palsy;
- (ii) guidelines aid and assistance to persons with cerebral palsy;
- (iii) guardianship and foster care;

It also provides that the Trust shall strengthen and support welfare programmes of families, parent associations and voluntary organisations and may receive properties bequeathed by parents to their children with mental retardation and cerebral palsy.

Clause 10 provides that the Central Government shall pay such sums of money into the Trust for the discharge of functions under the Act.

Clause 11 provides that the monies received by the Trust from the Government and byway of donations gifts grants etc shall be credited into a Fund.

Clause 12 provides for the form and the time within which the Budget of the Trust shall be prepared.

Clause 13 provides for maintenance of accounts and audit of the accounts.

Clause 14 provides for the form and time within which annual report of the Trust shall be prepared and be forwarded to the Central Government.

Clause 15 provides that all orders and decisions of the Trust shall be authenticated by the Chairperson and other instruments by the Chief Executive Officer or any other officer authorised by him.

Clause 16 provides that the Trust shall furnish to the Central Government reports, returns and other information as that Government may require.

Clause 17 provides that the Trust shall in the discharge of the functions under the Act shall be bound by the directions of the Central Government.

Clause 18 provides that the Central Government may by notification in the official Gazette supersede the Trust in certain contingencies.

Clause 19 provides that the Trust shall not be liable to pay tax on income.

Clause 20 confers immunity upon the Trust and its officers and employees for action taken in good faith.

Clause 21 provides that the members, the Chief Executive Officer and other employees of the Trust shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Clause 22 provides that the Trust may delegate to the Chairperson or any other member or any officer of the Trust its powers and functions under the Act.

Clause 23 empowers the Central Government to make rules by notification in the Official Gazette.

Clause 24 empowers the Trust to make regulations.

Clause 25 provides for the laying of the rules and regulations before Parliament.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 23 of the Bill empowers the Central Government to make rules by notification in the Official Gazette to provide inter alia for the appointment of persons under clause(b) of sub-clause (4) of clause 3; conditions of service of members; rules of procedure to be followed by the Trust in the conduct of its meetings; powers and duties of the Chief Executive Officer; the form in which and the time within which the budget of the Trust shall be forwarded to the Central Government; the manner in which and the time within which annual report shall be forwarded to the Central Government.

Clause 24 of the Bill empowers the Trust to make regulations with the previous approval of the Central Government to provide for the term and conditions of the Chief Executive Officer and other employees of the Trust.

Matters regarding which rules and regulations may be made are matters of detail and cannot be provided in the Act itself.

The delegation of legislative power is therefore of a normal character.

R.D. BHARDWAJ;
Secretary-General.

